

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT:

Suits – High Court - 50% decretal amount to be deposited in the High Court of A.P in CMA MP No. 270/2010 in CMA No.1136/2009 relating to Kakinada Deep water Port dredging and Navigational Aids - Sanction of Rs. 3,89,98,026/- towards decretal charges – Orders – Issued.

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INFRASTRUCTURE AND INVESTMENT (PORTS-II) DEPARTMENT

G.O.Ms. No. 18.

Dated:10-12-2010.

Read: From the Director of Ports, Kakinada, letter No.D1/1956/09, Dated:9-4-2010.

ORDER:

In the letter read above, the Director of Ports, Kakinada has reported that the Kakinada Deep Water Port Project consists of various work packages and one of the packages under the work of "Dredging and Navigational Aids", among other works, was entrusted to M/s. Dredging Corporation of India for Rs.65.77 Crores under Contract C3 and C6. During the execution of work, a dispute had arisen between the Employer (Port Dept.) and Contractor (M/s. Dredging Corporation of India) in regard to the rate for the dredged soils in front of berths and the matter was referred to the Arbitration for settlement of dispute and the committee of Arbitrators have passed an award for a sum of Rs.4,53,46,542/- with interest charges to M/s Dredging Corporation of India.

2 The Director of Ports, Kakinada has stated that when the matter was referred to Additional Advocate General, A.P., High Court, he had advised to file an appeal before the Civil Court. Accordingly, orders were issued in G.O.Rt.No.278, TR&B (Ports) Dept., Dt.21.3.2002 appointing Sri A.S.Ramachandra Murthy, Advocate as a Special Counsel to defend the case in the District Court, Kakinada on the award passed by the Committee of Arbitrators.

3. The Director of Ports, Kakinada has also reported that the petition filed by the department in regard to set aside the award for arbitrators was not accepted by the Hon'ble District Court, Kakinada while pronouncing the judgment on 8.6.2009 and the arbitration court case in O.P.199/2001 filed by the department was dismissed, but the interest rate was reduced to 6% per annum on the amount of award against 12% and 18% upto the date of award and from the date of award till to date of payment respectively as passed by the Committee of Arbitrators. Further, based on the orders issued by the Govt., an appeal was preferred in the Hon'ble High Court, Hyderabad to contest the case against the contractor's claim on the dispute in payment of extra claim on Contract C3 work through the Addl. Advocate General who was attending on behalf of Government within the limitation period as per Limitation Act and the case was numbered as CMA No.1136 of 2009. Similarly stay petition has also been filed in the High Court and numbered as CMAMP No.270 of 2010 in CMA No.1136 of 2009. The Hon'ble High Court has passed interim stay orders subject to the condition of the petitioner (Port Dept) to deposit half of the awarded amount within a period of 10 (ten) weeks from the date of passing stay orders on 24.2.2010 as detailed hereunder:

Arbitration amount : Rs. 4,53,46,542/-

Interest @6% from 25.2.1998 to 24.2.2010

ie. date of passed Interim Stay orders by
Hon.ble High Court, Hyderabad.

: Rs. 3,26,49,510/-

Total

Rs.7,79,96,052/-

Amount to be deposited in Hon'ble
High Court as per the Interim Orders
In CMAMP No.270/2010 in
CMANo.1136/2009

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: Rs.7,79,96,052/-

Rs.3,89,98,026/-

Contd...2.

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4. In view of the circumstances the Director of Ports, Kakinada has therefore requested the Government to accord administrative sanction and also to issue BRO for an amount of **Rs.3,89,98,026/-** under the Head of A/c "5051 Capital Outlay on Ports & Light Houses; 02 Minor Ports; GH-11 Normal State Plan; MH101 Kakinada Port; SH(04) Development of Kakinada Port; 530 Major works; 531 Other expenditure" to deposit half of the awarded amount as per Interim Stay Order No.CMA MP No.270/2010 in CMA No.1136/2009 of A.P. High Court pertaining to Arbitration case of Contract C3 Dredging and Navigational Aids at Kakinada Deep Water Port.

5. After careful examination of the proposal of Director of Ports, Kakinada, Government hereby accord sanction for an amount of Rs. 3,89,98,026/- (Rupees Three Crores Eighty Nine Lakhs Ninety Eight Thousand and Twenty Six only) being the 50% decretal amount to be deposited in the High Court of A.P in CMA MP No. 270/2010 in CMA No.1136/2009 relating to Kakinada Deep water Port dredging and Navigational Aids.

6. The expenditure sanctioned in para 5 above shall be debited to 5051 capital out lay on ports and Light Houses of Minor Ports – MH. 101 Kakinada Port – SH. 11 Normal State Plan – SH. (04) Kakinada Port – 530 Major works – 531 other Expenditure (charged) and shall initially be met by way of an advance from Contingency Fund, orders regarding which will be issued by Finance (BG) Department separately. Equal amount from voted provision is to be surrendered.

7. The Director of Ports, Kakinada is requested to take action for obtaining supplementary grant at appropriate time during the current financial year 2010-11 towards recoupment to the advance sanctioned from contingency fund.

8. This order issues with the Concurrence of Finance (Expr. PW) vide their U.O. No. 32900/917/A2/Expr.PW D/2010, dated: 3-12-2010.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

AJAY MISHRA,
PRINCIPAL SECRETARY TO GOVERNMENT

To

The Director of Ports, Kakinada.

Copy to

The Director of Treasuries & Accounts, Hyderabad.

The Director of Works Accounts, Hyderabad.

The pay and Accounts Officer, Kakinada.

The Finance (BG) Department

The District Treasury Officer, Kakinada, East Godavari District.

The Accountant General, Hyderabad.

The Finance (Expr.PW) Department

SF/SC.

//FORWARDED::BY ORDER//

SECTION OFFICER.